

116TH CONGRESS }      HOUSE OF REPRESENTATIVES    {      REPORT  
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ELDER ABUSE PROTECTION ACT OF 2020

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DECEMBER 31, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. NADLER, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 8169]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8169) to amend the Elder Abuse Prevention and Prosecution Act to authorize the Elder Justice Initiative, to require that online resources of such initiative are made available in Spanish, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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**Purpose and Summary**

H.R. 8169, the “Elder Abuse Protection Act of 2020,” would make permanent the Department of Justice’s (DOJ) Elder Justice Initiative and would require that materials posted by the Initiative be translated into Spanish. Under the proposed bill, the Elder Justice Initiative would be headed by DOJ’s Elder Justice Coordinator, and the Initiative would provide support to Elder Justice Coordinators,

who are currently already in place at each United States Attorney's Office around the country.

The Department of Health and Human Services (HHS) projects that, by 2060, the population of elderly Latino Americans will grow to 19.9 million, or 21% of the overall American elderly population.<sup>1</sup> This bill's requirement that certain Spanish-language resources be translated into Spanish would provide an important resource to over one million residents of the United States and marks one of this bill's primary aims.

### **Background and Need for the Legislation**

The number of elderly Americans abused annually is difficult to determine or even to estimate. One comprehensive study often cited estimates that approximately one in ten elderly Americans are abused annually, but only one in 23 cases of elder abuse are reported to authorities each year.<sup>2</sup> A study in New York State estimated that one in 13 elderly individuals had been victims of at least one form of elder abuse in the previous year.<sup>3</sup> The New York study found that, of those who had been abused, 41 of 1,000 seniors surveyed reported that they believed they had suffered financial exploitation. Elderly individuals are particularly vulnerable to abuse on account of a myriad of factors, with social isolation and mental impairment (such as dementia or Alzheimer's disease) playing outsized roles.<sup>4</sup>

#### *i. Consequences of Elder Abuse*

The impact of elder abuse can be catastrophic. Those abused may suffer enduring physical, mental, and emotional effects. The negative consequences of elder abuse for the American economy are high. Elderly Americans lose at least \$2.9 billion each year due to financial abuse and exploitation.<sup>5</sup> According to one study, strangers perpetrated 51% of elder abuse fraud, while financial abuse by family, friends, and neighbors constituted 34% of instances of elder abuse crime.<sup>6</sup> Elder Americans suffered annually an average loss of \$34,200 due to fraud, according to an analysis by the U.S. Consumer Financial Protection Bureau.<sup>7</sup>

#### *ii. DOJ Anti-Elder Abuse Efforts*

DOJ established the Elder Justice Initiative to support and coordinate the DOJ's enforcement and programmatic efforts to combat elder abuse, neglect and financial fraud targeting elderly Amer-

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<sup>1</sup> Admin. for Cnty. Living, U.S. Dep't of Health & Hum. Serv., *Profile of Hispanic Americans Age 65 and Over* 2 (2017), <https://acl.gov/sites/default/files/Aging%20and%20Disability%20in%20America/2017OAProfileHA508.pdf>.

<sup>2</sup> Mark S. Lachs & Karl A. Pillemer, *Elder Abuse*, 373 New Eng. J. Med. 1947, 1949 (2015), <https://doi.org/10.1056/NEJMra1404688>.

<sup>3</sup> Lifespan of Greater Rochester et al., *Under the Radar: New York State Elder Abuse Prevalence Study* (May 2011), <https://ocfs.ny.gov/main/reports/Under%20the%20Radar%202005%202012%20final%20report.pdf>.

<sup>4</sup> *Elder Abuse Facts*, Nat'l Council on Aging, <https://www.ncoa.org/public-policy-action/elder-justice/elder-abuse-facts/> (last visited Aug. 27, 2020).

<sup>5</sup> Mature Market Inst. et al., *The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders* 2 (June 2011), <https://ltcombudsman.org/uploads/files/issues/mmi-elder-financial-abuse.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> Katherine Skiba, *Older Americans Hit Hard by Financial Fraud*, AARP (Feb. 28, 2019), <https://www.aarp.org/money/scams-fraud/info-2019/cfpb-report-financial-elder-abuse.html>.

icans.<sup>8</sup> DOJ also operates 10 regional Elder Justice Task Forces that include federal, state and local prosecutors, law enforcement, and local agencies that provide services to the elderly. These teams coordinate and enhance efforts to pursue lawsuits against nursing homes that provide grossly substandard care to their residents.<sup>9</sup> The Elder Justice Task Forces are composed of representatives from the U.S. Attorneys' Offices, state Medicaid Fraud Control Units, and state and local prosecutors' offices, along with representatives from HHS, state adult protective services agencies, and local law enforcement agencies.<sup>10</sup> The Office of Victims of Crime in DOJ's Office of Justice Programs, also funds research on elder victim support and elder abuse prevention.<sup>11</sup>

### *iii. Recent Congressional Action*

In 2017, Congress enacted “The Elder Abuse Prevention and Prosecution Act,” to prevent and curtail elder abuse and improve law enforcement’s response to victims of elder abuse and exploitation.<sup>12</sup> The Elder Abuse Prevention and Prosecution Act established a new framework to prosecute elder abuse and educate state and local law enforcement on how to prosecute instances of elder abuse and support victims. Importantly, that law required each U.S. Attorney’s Office to appoint an elder justice coordinator and required the FBI to provide specialized training to agents relating to the investigation of elder abuse. Additionally, the Elder Abuse Prevention and Prosecution Act required the Attorney General to designate an elder justice coordinator to harmonize DOJ-wide elder justice policy and practices. Recently, the House of Representatives passed H.R. 6813, “Promoting Alzheimer’s Awareness to Prevent Elder Abuse Act,” to promote the promulgation of best practices for local jurisdictions to reduce the incidents of elder abuse.

### **Hearings**

The Committee did not hold hearings on this bill.

### **Committee Consideration**

On September 15, 2020, the Committee met in open session and ordered the bill, H.R. 8169, favorably reported, by a voice vote, a quorum being present.

### **Committee Votes**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no recorded votes occurred during the Committee’s consideration of H.R. 8169. The bill was favorably reported by a voice vote.

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<sup>8</sup> Elder Justice Initiative, U.S. Dept. of Justice, <https://www.justice.gov/elderjustice/support/faq#is-elder-abuse-underreported> (last visited August 22, 2020).

<sup>9</sup> *Elder Justice Task Forces*, U.S. Dep’t of Just., <https://www.justice.gov/elderjustice/task-forces> (last visited Aug. 22, 2020).

<sup>10</sup> *Id.*  
<sup>11</sup> See Yunsoo Park & Carrie Mulford, *Social Support Can Diminish Negative Effects of Elder Abuse*, Nat'l Adult Protective Serv. Assoc. & Nat'l Comm. for the Prevention of Elder Abuse, <http://www.napsa-now.org/wp-content/uploads/2018/01/R2P-Park-Mulford.pdf>.

<sup>12</sup> Pub. L. No. 115–70, 131 Stat. 1208 (2017).

### **Committee Oversight Findings**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### **New Budget Authority and Tax Expenditures and Congressional Budget Office Cost Estimate**

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office (CBO). The Committee has requested but not received from the Director of the CBO a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

#### **Duplication of Federal Programs**

No provision of H.R. 8169 establishes or reauthorizes a program of the Federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance. The bill authorizes, on a permanent basis, already existing programs.

#### **Performance Goals and Objectives**

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 8169 would establish the Elder Justice Initiative as a permanent Department of Justice coordinating element; require the Elder Justice Initiative to post online materials for the public to help identify elder abuse and report it; and require the Initiative to translate into Spanish the materials it prepares aimed at the public.

#### **Advisory on Earmarks**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 8169 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

#### **Section-by-Section Analysis**

The following discussion describes the bill as reported by the Committee.

*Sec. 1. Short Title.* This section establishes the bill's short title as the "Elder Abuse Protection Act of 2020."

*Sec 2. Elder Justice Initiative.* In this section, the bill would make the Elder Justice Initiative a permanent office within the DOJ's Criminal Division. This section requires that the Elder Justice Initiative coordinate criminal enforcement and public engagement to combat elder abuse, neglect, and financial fraud. Under this section, the Elder Justice Initiative would also be responsible for overseeing the Elder Justice Coordinators, who are assigned to each United States Attorney's Office.

*DOJ Elder Justice Coordinator.* This subsection moves a section already in law into the new Elder Justice Initiative framework. Currently, DOJ's Elder Justice Coordinator is required to evaluate training models and best practices to create publicly available materials for local law enforcement and public officials tasked with investigating, interacting with victims of elder abuse, or addressing elder abuse. This subsection also adds to the Elder Justice Coordinator's responsibilities a duty to serve as the head of the Elder Justice Initiative. The Elder Justice Coordinator may also carry out other duties assigned by the Attorney General to enhance the understanding, prevention, and detection of, and response to, elder abuse.

*Online Public Resources.* This subsection would require the Elder Justice Initiative to maintain and publish on the Internet, information aimed at protecting elders from fraudulent schemes and include resources aimed at preventing elder abuse.

*Spanish Language Resources.* This subsection would require the Attorney General to translate into Spanish any online resources that the Elder Justice Initiative publishes. Additionally, this section would require that the Elder Justice Initiative post Spanish-language links that facilitate reporting of elder fraud and abuse to State and local law enforcement and help educate the public to prevent financial exploitation of elders.

#### **Changes in Existing Law Made by the Bill, as Reported**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

#### **ELDER ABUSE PREVENTION AND PROSECUTION ACT**

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### **TITLE I—SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE**

#### **SEC. 101. SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE.**

##### **(a) SUPPORT AND ASSISTANCE.—**

(1) **ELDER JUSTICE COORDINATORS.**—The Attorney General shall designate in each Federal judicial district not less than one Assistant United States Attorney to serve as the Elder Justice Coordinator for the district, who, in addition to any other responsibilities, shall be responsible for—

- (A) serving as the legal counsel for the Federal judicial district on matters relating to elder abuse;
- (B) prosecuting, or assisting in the prosecution of, elder abuse cases;
- (C) conducting public outreach and awareness activities relating to elder abuse; and
- (D) ensuring the collection of data required to be collected under section 202.

(2) INVESTIGATIVE SUPPORT.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, shall, with respect to crimes relating to elder abuse, ensure the implementation of a regular and comprehensive training program to train agents of the Federal Bureau of Investigation in the investigation and prosecution of such crimes and the enforcement of laws related to elder abuse, which shall include—

- (A) specialized strategies for communicating with and assisting elder abuse victims; and
- (B) relevant forensic training relating to elder abuse.

(3) RESOURCE GROUP.—The Attorney General, through the Executive Office for United States Attorneys, shall ensure the operation of a resource group to facilitate the sharing of knowledge, experience, sample pleadings and other case documents, training materials, and any other resources to assist prosecutors throughout the United States in pursuing cases relating to elder abuse.

(4) DESIGNATED ELDER JUSTICE WORKING GROUP OR SUB-COMMITTEE TO THE ATTORNEY GENERAL'S ADVISORY COMMITTEE OF UNITED STATES ATTORNEYS.—Not later than 60 days after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Executive Office for United States Attorneys, shall establish a subcommittee or working group to the Attorney General's Advisory Committee of United States Attorneys, as established under section 0.10 of title 28, Code of Federal Regulations, or any successor thereto, for the purposes of advising the Attorney General on policies of the Department of Justice relating to elder abuse.

**I(b) DEPARTMENT OF JUSTICE ELDER JUSTICE COORDINATOR.**—Not later than 60 days after the date of enactment of this Act, the Attorney General shall designate an Elder Justice Coordinator within the Department of Justice who, in addition to any other responsibilities, shall be responsible for—

**I(1)** coordinating and supporting the law enforcement efforts and policy activities for the Department of Justice on elder justice issues;

**I(2)** evaluating training models to determine best practices and creating or compiling and making publicly available replication guides and training materials for law enforcement officers, prosecutors, judges, emergency responders, individuals working in victim services, adult protective services, social services, and public safety, medical personnel, mental health personnel, financial services personnel, and any other individuals whose work may bring them in contact with elder abuse regarding how to—

**I(A)** conduct investigations in elder abuse cases;

[(B) address evidentiary issues and other legal issues; and

[(C) appropriately assess, respond to, and interact with victims and witnesses in elder abuse cases, including in administrative, civil, and criminal judicial proceedings; and

[(3) carrying out such other duties as the Attorney General determines necessary in connection with enhancing the understanding, prevention, and detection of, and response to, elder abuse.]

(b) *ELDER JUSTICE INITIATIVE.*—

(1) *PERMANENT INITIATIVE.*—The Attorney General shall establish within the Criminal Division an Elder Justice Initiative to coordinate criminal enforcement and public engagement efforts to combat elder abuse, neglect, and financial fraud and scams that target elders, and to support and coordinate the efforts of the Elder Justice Coordinators designated under subsection (a).

(2) *DEPARTMENT OF JUSTICE ELDER JUSTICE COORDINATOR.*—The Attorney General shall designate an Elder Justice Coordinator within the Department of Justice who, in addition to any other responsibilities, shall be responsible for—

(A) coordinating and supporting the law enforcement efforts and policy activities as the head of the Elder Justice Initiative for the Department of Justice on elder justice issues;

(B) evaluating training models to determine best practices and creating or compiling and making publicly available replication guides and training materials for law enforcement officers, prosecutors, judges, emergency responders, individuals working in victim services, adult protective services, social services, and public safety, medical personnel, mental health personnel, financial services personnel, and any other individuals whose work may bring them in contact with elder abuse regarding how to—

(i) conduct investigations in elder abuse cases;  
 (ii) address evidentiary issues and other legal issues; and

(iii) appropriately assess, respond to, and interact with victims and witnesses in elder abuse cases, including in administrative, civil, and criminal judicial proceedings; and

(C) carrying out such other duties as the Attorney General determines necessary in connection with enhancing the understanding, prevention, and detection of, and response to, elder abuse.

(3) *ONLINE PUBLIC RESOURCES.*—The Elder Justice Initiative shall maintain and publish on the internet, information aimed at protecting elders from fraudulent schemes and contain resources aimed at preventing elder abuse.

(4) *SPANISH LANGUAGE RESOURCES.*—The Attorney General shall ensure that Elder Justice Initiative online resources are available in Spanish and link linguistically appropriate resources to inform Spanish-speaking elders of Federal and State

*resources to combat fraud and abuse that targets the elderly, to include—*

(A) Spanish-language resources and links that help report instances of elder fraud and abuse to State and local law enforcement; and

(B) resources that help prevent financial exploitation of elders.

(c) FEDERAL TRADE COMMISSION.—

(1) FEDERAL TRADE COMMISSION ELDER JUSTICE COORDINATOR.—Not later than 60 days after the date of enactment of this Act, the Chairman of the Federal Trade Commission shall designate within the Bureau of Consumer Protection of the Federal Trade Commission an Elder Justice Coordinator who, in addition to any other responsibilities, shall be responsible for—

(A) coordinating and supporting the enforcement and consumer education efforts and policy activities of the Federal Trade Commission on elder justice issues; and

(B) serving as, or ensuring the availability of, a central point of contact for individuals, units of local government, States, and other Federal agencies on matters relating to the enforcement and consumer education efforts and policy activities of the Federal Trade Commission on elder justice issues.

(2) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and once every year thereafter, the Chairman of the Federal Trade Commission and the Attorney General shall each submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report detailing the enforcement actions taken by the Federal Trade Commission and the Department of Justice, respectively, over the preceding year in each case in which not less than one victim was an elder or that involved a financial scheme or scam that was either targeted directly toward or largely affected elders, including—

(A) the name of the district where the case originated;

(B) the style of the case, including the case name and number;

(C) a description of the scheme or scam; and

(D) the outcome of the case.

(d) USE OF APPROPRIATED FUNDS.—No additional funds are authorized to be appropriated to carry out this section.

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